

BOARD OF ZONING APPEALS MEETING

A G E N D A

TOWN OF CHINCOTEAGUE

January 08, 2009 - 7:30 P.M. – Council Chambers - Town Hall

CALL TO ORDER

AGENDA ADOPTION:

1. Approval of Minutes of October 9, 2008
2. Public Participation
3. Appeal 09-01-1. Charles & Nancy Kupelian, variance to construct a 50" – 56" high fence. The fence is located on vacant parcels off of Willow St..

ADJOURN:

MINUTES OF THE MEETING OCTOBER 9, 2008
CHINCOTEAGUE BOARD OF ZONING APPEALS

MEMBERS PRESENT:

Mr. Arthur Leonard
Mr. Jessi Speidel
Mr. Robert Cherrix
Mr. Jack Gilliss
Mr. Donald Thornton

MEMBERS ABSENT:

Mr. Myron Birch
Mr. Mike McGee

Kenny L. Lewis, Staff Support

1. Call to Order

Mr. Leonard called the meeting to order at 7:30 pm.

2. Approval of Minutes of Meeting Held June 12, 2008

Mr. Speidel motioned, seconded by Mr. Thornton, to approve the minutes as presented. The motion was unanimously approved.

3. Appeal 08-10-01 A request for a variance from Gene W. Taylor, for parcel 18 and parcel 30 located on Mussell Lane. The applicant request to place a new structure on each parcel 10' from the side lot line of a corner lot. Current zoning requires a minimum 15' side yard setback. Both parcels are considered non-conforming lots at 5,250 square feet in area each. This property is zoned Residential District R-3.

4. Board Action on Appeal

Mr. Speidel motioned, seconded by Mr. Thornton to approve the request. All in favor. Motion carried. Request approved.

5. Adjournment

Mr. Leonard adjourned the meeting.

Arthur Leonard, Chairman

FAX
December 15, 2008

Eastern Shore Post
P.O. Box 318
Tasley, VA 23441

Dear Sirs:

The Town of Chincoteague request the following notice of public hearing be published in the Eastern Shore Post on Friday December 26, 2008 and Friday January 2, 2009:

Public Notice

The Board of Zoning Appeals of the Town of Chincoteague will hold a public hearing on January 8, 2009 at 7:30 p.m. in the Council Chambers located at 6150 Community Drive to receive public comments and views on the following zoning matters:

Appeal 09-01-1 A variance request from Charles & Nancy Kupelian, for parcels 30A5-A-535 & 538 on Willow Street. The applicant request to install a fence on said property for the containment of his horses. The fence will be between 50" and 56" in height. Current zoning permits such fences provided the fence does not exceed 48" in height. This property is zoned Residential District R-3.

Kenny L. Lewis
Zoning Administrator



**CHINCOTEAGUE, VIRGINIA
APPEAL TO THE
BOARD OF ZONING APPEALS**

APPEAL CASE NUMBER: 09-01-1

FEE: \$ 450.00

I, Charles Kupelian and Nancy Kupelian,

AGENT FOR Self WOULD LIKE TO FILE THE
FOLLOWING APPEAL WITH THE BOARD OF ZONING APPEALS BASED UPON THE NOTED
STATE CODE(S):

TITLE 15.2, CODE OF VIRGINIA, 1959 (AS AMENDED)

(CHECK ALL THAT APPLY)

1. () AN APPEAL OF AN OFFICER, REQUIREMENT, DECISION OR DETERMINATION
OF AN ADMINISTRATIVE OFFICER.
2. () AN APPEAL OF A DECISION OF THE ZONING ADMINISTRATOR.
3. () AN INTERPRETATION OF THE DISTRICT ZONING MAP, IN THAT THERE IS AN
UNCERTAINTY AS TO THE LOCATION OF A DISTRICT BOUNDARY.
4. (X) AN APPEAL FOR A VARIANCE. THE APPLICANT IS REQUIRED TO SHOW THAT
A LAND USE HARDSHIP EXIST. SEE ATTACHED EXAMPLE SHEET FOR
HARDSHIP CRITERIA.
5. () AN APPEAL FOR A VARIANCE OF THE FLOOD PLAIN MANAGEMENT
ORDINANCE
6. () OTHER; RELIEF OF CONDITIONS, ETC.

BOARD OF ZONING APPEALS USE ONLY:

MEETING DATE: 1/8/09

APPEAL ACTION:

() APPROVED

() DENIED

() CONDITIONAL: _____

BZA, SECRETARY

DATE: _____

(1.) RULES AND REGULATIONS TO FILE FOR APPEAL:

(A). APPLICANTS OR THEIR AGENTS SHALL NOT CONTACT ANY BOARD MEMBER TO DISCUSS THE CASE PRIOR TO THE SCHEDULED PUBLIC HEARING OF THEIR APPEAL.

(B). FAILURE OF APPLICANT OR AGENT TO APPEAR BEFORE THE BOARD MAY BE REASON FOR DENIAL.

(C). APPLICANT MUST POST APPEAL NOTICE FURNISHED BY THE ZONING ADMINISTRATOR ON SAID PROPERTY, VISIBLE FROM THE STREET.

(D). APPLICANT SHALL SUBMIT A PLOT PLAN, TO SCALE, OF THE SAID PROPERTY IDENTIFYING THE FOLLOWING:

- 1. ALL EXISTING STRUCTURES LOCATED ON SAID PROPERTY.**
- 2. PROPOSED NEW STRUCTURES.**
- 3. SETBACKS FROM FRONT, SIDES AND REAR PROPERTY LINES.**
- 4. LOCATION OF EXISTING SEPTIC, DRAIN FIELDS OR CESSPOOLS.**
- 5. LOCATION OF EASEMENTS, RIGHT-OF-WAYS AND PUBLIC ROADS THAT ADJOIN OR ENTER SAID PROPERTY.**

(E). THE CHINCOTEAGUE BOARD OF ZONING APPEALS HAS SEVEN (7) MEMBERS. TO OBTAIN APPROVAL FOR A VARIANCE OR SPECIAL USE PERMIT, FOUR (4) MEMBERS MUST VOTE IN YOUR FAVOR.

(F). ANY DECISION OF THE BOARD OF ZONING APPEALS MAY BE APPEALED TO THE CIRCUIT COURT OF ACCOMACK COUNTY WITHIN 30 DAYS OF RECEIPT OF THE DECISION MADE.

(G). THE BZA MAY IMPOSE SUCH CONDITIONS REGARDING THE LOCATION, CHARACTER AND OTHER FEATURES OF THE PROPOSED STRUCTURE OR USE AS IT MAY DEEM NECESSARY IN THE PUBLIC INTEREST.

(2.) NOTIFICATION OF PROPERTY OWNERS:

ALL APPLICATIONS SHALL BE ACCOMPANIED BY WRITTEN COMMENTS FROM OWNERS OF REAL ESTATE AS FOLLOWS:

(A). VARIANCE:

APPLICANTS SHALL SUBMIT WRITTEN COMMENTS FROM ALL ADJOINING PROPERTY OWNERS INCLUDING THE PROPERTY OWNERS ACROSS THE STREET(S) OR ACROSS BODIES OF WATERS ADJACENT TO OR DIVIDING TWO PROPERTIES. THE BZA MAY REQUIRE THE APPLICANT TO SUBMIT WRITTEN COMMENTS FROM ADDITIONAL PROPERTY OWNERS.

(B). WRITTEN NOTIFICATION OF APPEAL:

PROPERTY OWNERS NOT AVAILABLE FOR WRITTEN COMMENT SHALL BE NOTIFIED OF THE PROPOSED REQUEST BY CERTIFIED MAIL.

A COPY OF THE REGISTERED MAIL AND THE CERTIFIED MAIL RECEIPT MUST BE SUBMITTED AT THE TIME OF FILING THE APPEAL.

RETURN RECEIPT OF THE CERTIFIED MAIL MUST BE GIVEN TO THE ZONING ADMINISTRATOR A MINIMUM OF 5 DAYS PRIOR TO THE MEETING DATE.

PLEASE PRINT

THE PROPERTY IN WHICH THIS APPEAL IS SUBMITTED IS LOCATED AT (911 ADDRESS)

30A5-A-535 & 538, TAX MAP # _____

THIS PROPERTY IS OWNED BY:

NAME: Charles & Nancy Kupelian

ADDRESS: 6316 CLEVELAND ST.

CITY, STATE, ZIP: CHINCOTEAGUE VA 23336

PHONE: 336-3316

WORK PHONE: 824-1838

HAS ANY PREVIOUS APPLICATION OR APPEAL BEEN FILED IN CONNECTION WITH THESE PREMISES?

☒ NO

☐ YES, EXPLAIN; _____

IS THIS APPEAL FILED DUE TO A ZONING VIOLATION IDENTIFIED BY THE ZONING ADMINISTRATOR?

☒ NO

☐ YES, IF THE VIOLATION HAS NOT BEEN CORRECTED, EXPLAIN WHY; _____

ARTICLE(S) AND SECTION(S) THAT APPLIES TO YOUR APPEAL:

(1.) ARTICLE: 3 SECTION: 3.7.16 (2)
REQUIRES: MAX FENCE HEIGHT OF 48"

(2.) ARTICLE: _____ SECTION: _____
REQUIRES: _____

(3.) EXPLAIN REASON FOR APPEAL

Wish to install a Rail Fence for the purpose
of containing horses.

THE Highest Rail is 50" to 56", the max height
of the post is 54"-56"

GUIDELINES USED BY THE BOARD OF ZONING APPEALS IN GRANTING A VARIANCE

In order for the Board of Zoning Appeals to review your request for a variance, the threshold question for the BZA in considering an application for a variance "is whether the effect of the zoning ordinance upon the property under consideration, as it stands, interferes with all reasonable beneficial uses of the property, taken as a whole". If the answer is in the negative, the BZA has no authority to go further.

☒ yes
☐ no

Please answer the following questions:

(1). Does the strict application of the ordinance result in unnecessary or unreasonable hardship to the property owner?

☒ yes, Explain;

Recommended height for proper installation
of the fencing material is posts at least 54"
above ground. Allowing for variations in terrain,
post height could vary from 50" to 56".
☐ no

(2). Is the need for the variance shared generally by other properties?

☒ yes, Explain;

A 48" fence is too low for average size horses,
which stand at 60" at the withers. Safe contain-
ment recommend ~~at~~ a higher fence. A property
owner wanting to use a property for such
a purpose would encounter difficulties
☐ no

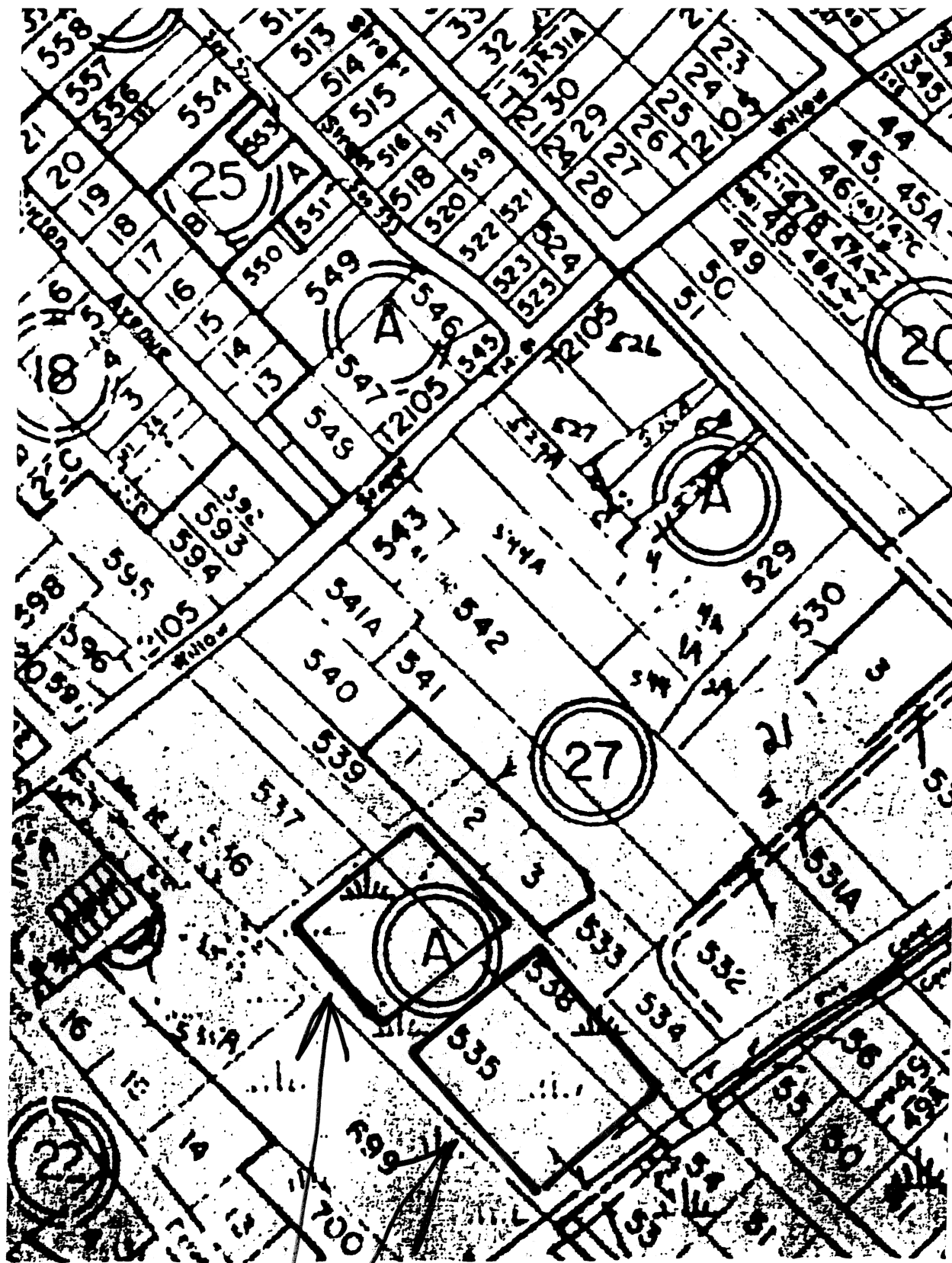
(3). Is the variance contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done.

☒ yes, Explain;

Chincoteague is a horse friendly town,
and fencing for average size horses
needs to be taller than the ordinance
allows.
☐ no

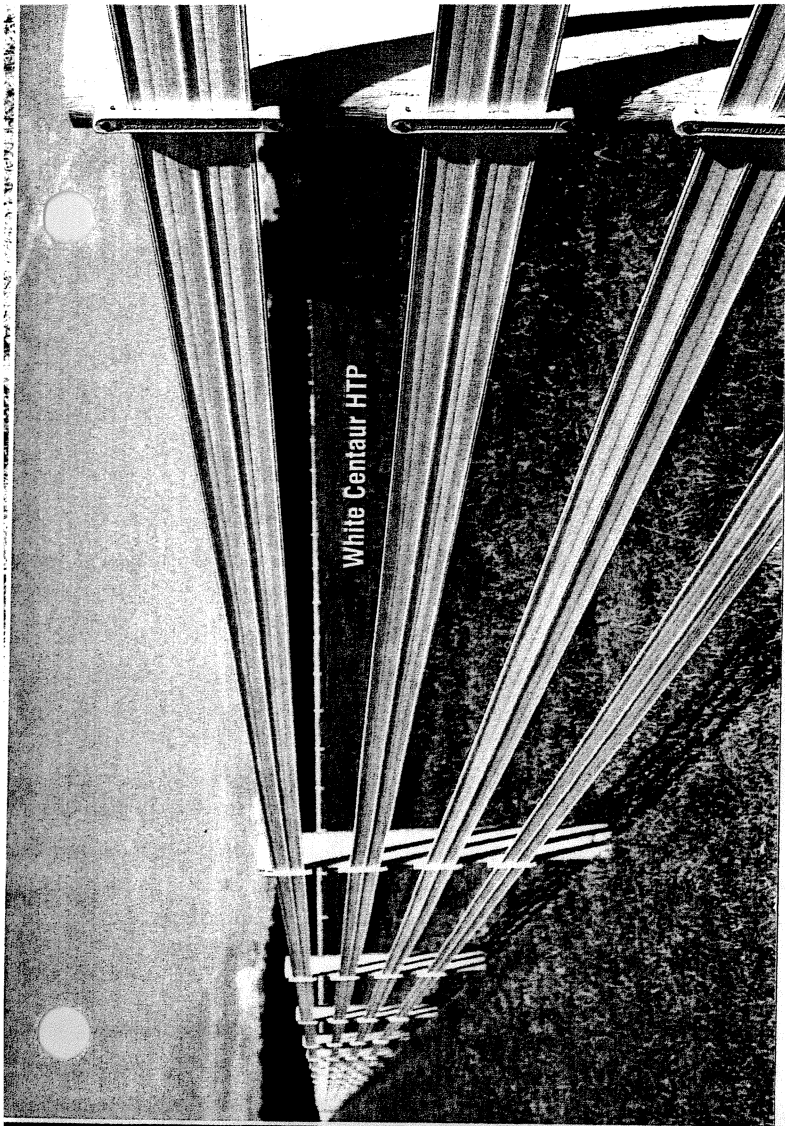
All of the above questions must be answered. Failure to complete the above questions shall result in your application not being processed.



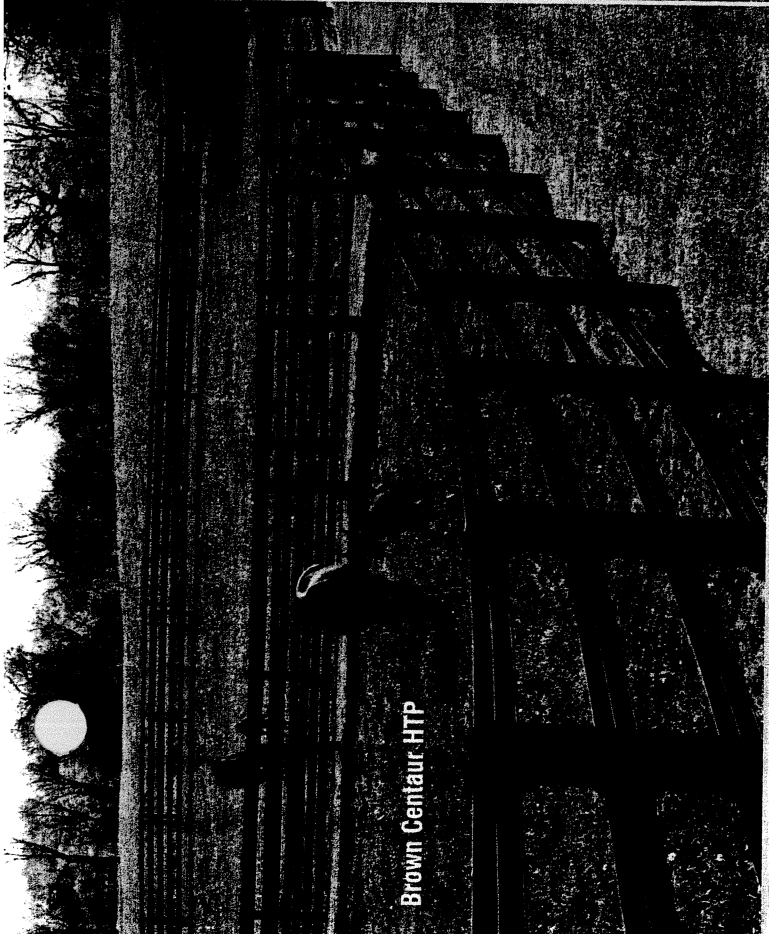


Site Plan

FENCES



White Centaur HTP



Brown Centaur HTP

TAX MAP # 30A5-27-1 LOCATION OF PROPERTY WEST

NAME: Eugene & Karen Muth

ADDRESS: P.O. Box 98 Chino VA PHONE: _____

COMMENTS: _____

☒ APPROVE REQUEST

☐ DISAPPROVE REQUEST

SIGNATURE: Karen H. Muth

DATE: 10/12/08

TAX MAP #	<u>30A5-A-536</u>	LOCATION OF PROPERTY	<u>South</u>
NAME:	<u>WARREN LEE MEARS</u>		
ADDRESS:	<u>3634 Willow ST</u>	PHONE:	
COMMENTS:			
(<input checked="" type="checkbox"/>) APPROVE REQUEST (<input type="checkbox"/>) DISAPPROVE REQUEST			
SIGNATURE:	<u>Warren L Mear</u>	DATE:	<u>12-10-08</u>

PLEASE INDICATE YOUR APPROVAL OR DISAPPROVAL OF THE PROPOSED LAND USE AS STATED IN THE APPLICATION BY CHECKING THE APPROPRIATE SPACE. SPECIFY THE LOCATION OF YOUR PROPERTY; NORTH, EAST, SOUTH OR WEST OF THE APPLICANTS PROPERTY.

TAX MAP #	<u>30A5-A-535</u>	LOCATION OF PROPERTY	<u>537, 539, 538, 27-2, 27-3</u>
NAME:	<u>Charles - Nancy Kupelian</u>		
ADDRESS:	<u>6316 Cleveland ST</u>	PHONE:	
COMMENTS:			
<input checked="" type="checkbox"/> APPROVE REQUEST	<input type="checkbox"/> DISAPPROVE REQUEST		
SIGNATURE:	<u>Nancy M Kupelian</u>	DATE:	

TAX MAP #	<u>30A5-A-538</u>	LOCATION OF PROPERTY	<u>South</u>
NAME:	<u>WARREN LEE MEARS</u>		
ADDRESS:	<u>3634 Willow ST</u>	PHONE:	
COMMENTS:			
<input type="checkbox"/> APPROVE REQUEST	<input type="checkbox"/> DISAPPROVE REQUEST		
SIGNATURE:		DATE:	

TAX MAP #	<u>30A5-A-699</u>	LOCATION OF PROPERTY	<u>South</u>
NAME:	<u>Charles Jester & Delilah Estate % Jester</u>		
ADDRESS:	<u>4444 N. Witchduck Rd</u>	PHONE:	<u>UA Beach UA 23455</u>
COMMENTS:			
<input type="checkbox"/> APPROVE REQUEST	<input type="checkbox"/> DISAPPROVE REQUEST		
SIGNATURE:		DATE:	

TAX MAP # 30A5-23-53 LOCATION OF PROPERTY EAST
NAME: Peter Jaszi or Sheryl Gilbert
ADDRESS: 5402 Surrey St Chevy Chase 20813 PHONE: _____
COMMENTS: _____
() APPROVE REQUEST () DISAPPROVE REQUEST
SIGNATURE: _____ DATE: _____

TAX MAP # 30A5-A-594 LOCATION OF PROPERTY WEST
NAME: Daniel & Connie Richards
ADDRESS: P.O. Box 134 Milford DE 19963 PHONE: _____
COMMENTS: _____
() APPROVE REQUEST () DISAPPROVE REQUEST
SIGNATURE: _____ DATE: _____

TAX MAP # 30A5-A-595 LOCATION OF PROPERTY WEST
NAME: Daniel & Peggy Bernstein
ADDRESS: 4254 Ridge Rd Chincoteague VA PHONE: _____
COMMENTS: _____
() APPROVE REQUEST () DISAPPROVE REQUEST
SIGNATURE: _____ DATE: _____

TAX MAP # _____ LOCATION OF PROPERTY _____
NAME: _____
ADDRESS: _____ PHONE: _____
COMMENTS: _____
() APPROVE REQUEST () DISAPPROVE REQUEST
SIGNATURE: _____ DATE: _____

TAX MAP # 30A5-27-1 LOCATION OF PROPERTY WEST
NAME: Eugene & Karen Muth
ADDRESS: P.O. Box 98 Chino VA PHONE: _____
COMMENTS: _____
() APPROVE REQUEST () DISAPPROVE REQUEST
SIGNATURE: _____ DATE: _____

TAX MAP # 30A5-A-533 LOCATION OF PROPERTY N/E
NAME: Paul & Harriette Harding Trustee
ADDRESS: 1709 Grandin Ave Rockville MD 20851 PHONE: _____
COMMENTS: _____
(☒) APPROVE REQUEST () DISAPPROVE REQUEST
SIGNATURE: Paul K. Harding DATE: 12/12/08

TAX MAP # 30A5-A-534 LOCATION OF PROPERTY N/E
NAME: Laura Alexander
ADDRESS: 712 W Park Ave Chandler AZ 85224 PHONE: _____
COMMENTS: _____
() APPROVE REQUEST () DISAPPROVE REQUEST
SIGNATURE: _____ DATE: _____

TAX MAP # 30A5-23-54 LOCATION OF PROPERTY EAST
NAME: Richard & Lucille Chagnon
ADDRESS: 6448 Arbor Ln, P.O. Box 438 Chino VA PHONE: _____
COMMENTS: _____
() APPROVE REQUEST () DISAPPROVE REQUEST
SIGNATURE: _____ DATE: _____

**CHINCOTEAGUE
BOARD OF ZONING APPEALS
ANNUAL REPORT FOR 2008**

JANUARY

1 APPEAL

PETE & ERICA BALE, 6327 CLEVELAND STREET

VARIANCE: 11' FRONT YARD SETBACK. ZONING REQUIRES 25' OR AVERAGE .

DECISION: MOTION TO APPROVE

YEA: BIRCH, THORNTON, GILLISS & LEONARD

NAY: SPEIDEL, CHERRIX

ACTION: APPEAL APPROVED

MEMBERS ABSENT: MCGEE

FEBRUARY 2 APPEALS

JOHN SHAFT, 8061 LUNN ESTATES

VARIANCE: 2' SIDE YARD SETBACK. ZONING REQUIRES 5'.
CARPORT 540 SQ. FT. IN AREA, ZONING PERMITS 96 SQ. FT. IN AREA

DECISION: MOTION TO DENY THE APPEAL

YEA: BIRCH, THORNTON, GILLISS, SPEIDEL, MCGEE, CHERRIX

NAY:

ACTION: APPEAL DENIED

MEMBERS ABSENT: LEONARD

CHUCK PALUBA, 4246 SUNRISE DR CIR

VARIANCE: 30' REAR YARD SETBACK. ZONING REQUIRES 35' REAR YARD SETBACK.

DECISION: MOTION TO APPROVE

YEA: BIRCH, THORNTON, GILLISS, SPEIDEL, MCGEE, CHERRIX

NAY:

ACTION: APPEAL APPROVED

MEMBERS ABSENT: LEONARD

MARCH 0 APPEALS

APRIL 1 APPEAL

LAURIE WALTON, 4211 MAIN ST

VARIANCE: 0' SIDE YARD SETBACK. ZONING REQUIRES 15' SIDE YARD SETBACK.

DECISION: MOTION TO APPROVE

YEA: LEONARD, BIRCH, THORNTON, GILLISS, SPEIDEL, MCGEE, CHERRIX

NAY:

ACTION: APPEAL APPROVED

MEMBERS ABSENT:

MAY 1 APPEAL

PONY PINES, 7503 EASTSIDE ROAD

VARIANCE: TO REMOVE A CONDITIONAL THAT WAS PREVIOUSLY ATTACHED TO VARIANCE.

DECISION: MOTION TO DENY

YEA: LEONARD, BIRCH, THORNTON, SPEIDEL, MCGEE

NAY:

ACTION: APPEAL DENIED

MEMBERS ABSENT: CHERRIX, GILLISS

JUNE 1 APPEAL

JOHN OSANI, 7843 & 7847 EASTSIDE ROAD

VARIANCE: MAKE 2 PARCELS OUT OF ONE, 1- LOT 10,742 SQ FT, THE OTHER 5,802.5 SQ FT IN AREA

DECISION: MOTION TO DENY

YEA: GILLIS, SPEIDEL, THORNTON, CHERRIX, BIRCH

NAY:

ACTION: APPEAL DENIED

MEMBERS ABSENT: LEONARD, MCGEE

JULY 0 APPEAL

AUGUST 0 APPEALS

SEPTEMBER 0 APPEALS

OCTOBER 1 APPEAL

GENE W. TAYLOR, PARCEL 18 & 30 MUSSELL LANE	
VARIANCE: 10' SIDE YARD SETBAKS ON A CORNER LOT. ZONING REQUIRES A MINIMUM OF 15'.	
DECISION: MOTION TO APPROVE	
YEA:	GILLIS, SPEIDEL, THORNTON, CHERRIX, LEONARD
NAY:	
ACTION: APPEAL APPROVED	
MEMBERS ABSENT: BIRCH, MCGEE	

NOVEMBER 0 APPEALS

DECEMBER 0 APPEALS

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TOTAL VARIANCES:           7   APPROVED: 4   DENIED: 3

TOTAL SPECIAL USE PERMITS:  0   APPROVED: 0   DENIED: 0

TOTAL DECISION OF THE
ZONING ADMINISTRATOR       0   APPROVED: 0   DENIED: 0

TOTAL APPEALS:             7   APPROVED: 4   DENIED: 3
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APPEALS ATTENDANCE:      PRESENT      ABSENT

BIRCH:                   6              1
MC GEE:                  4              3
LEONARD:                 4              3
CHERRIX:                 6              1
THORNTON:                7              0
SPEIDEL:                 7              0
GILLISS:                 6              1
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